

Federal Court



Cour fédérale

Date: 20250110

Docket: IMM-3167-24

Citation: 2025 FC 55

Toronto, Ontario, January 10, 2025

PRESENT: Justice Andrew D. Little

BETWEEN:

MUHAMMAD TEHSEEN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The applicant is a citizen of Pakistan. He requests that the Court set aside a decision of an officer dated December 20, 2023, refusing his application for a work permit under the Temporary Foreign Worker Program, and specifically under paragraph 200(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR-2002/227 (the “IRPR”).

[2] The applicant submitted that the decision was unreasonable under the principles in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 and that he was denied procedural fairness.

[3] I agree that the decision must be set aside because it was unreasonable.

[4] By letter dated June 8, 2023, the applicant was offered a position as a meat cutter at a grocery and halal meat store in the Toronto area, which he accepted.

[5] The applicant applied for a work permit under the Temporary Foreign Worker Program. In addition to his application forms, he filed:

- a) A labour market impact assessment (“LMIA”) dated May 26, 2023;
- b) The offer letter from the Canadian employer dated June 8, 2023;
- c) A letter from the Tehseen Meat Shop, Chaman Bazar Fort Abbas, Pakistan, signed by Qamar Uzzaman, owner, and notarized;
- d) Financial documents, including tax filings and bank statements for the Tehseen Meat Shop (some of which included reference to the applicant) and a net worth statement dated July 15, 2023, prepared by a chartered accountant firm in Pakistan;

- e) Statements from customers of the meat shop, which included compliments about the applicant's service;
- f) A statutory declaration sworn by the applicant on June 13, 2023 (but dated January 11, 2022).

[6] By letter dated December 20, 2023, an officer advised that the applicant did not meet the requirements of the *IRPR* or the *Immigration and Refugee Protection Act*, SC 2001, c 27. The officer was not satisfied that the applicant would leave Canada at the end of his stay as required by paragraph 200(1)(b) of the *IRPR*, based on the following grounds:

- Your current employment situation does not show that you are financially established in your country of residence.
- You were not able to demonstrate that you will be able to adequately perform the work you seek.

[7] Also on December 20, 2023, the officer entered the following notes in the Global Case Management System ("GCMS"):

I have reviewed the application. I have considered the following factors in my decision. The applicant's current employment situation does not show that they are financially established in their country of residence. Based on the documentation submitted, I am not satisfied that the applicant will be able to adequately perform the proposed work given their: - Insufficient experience The applicant declared he was Meat Cutter at Tehseen since 2019. Employment letter provided is undated and does not state the exact date when PA was hired. Weighing the factors in this application. I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay. For the reasons above, I have refused this application.

[8] The refusal letter and the GCMS notes comprise the officer's reasons for the decision: see e.g., *Patel v. Canada (Citizenship and Immigration)*, 2024 FC 999, at para 6; *Foumani v. Canada (Citizenship and Immigration)*, 2024 FC 574, at para 21. The letter concluded that the applicant would not leave Canada at the end of his authorized stay. One reason was that he was not able to demonstrate that he would be able to adequately perform the work he seeks in Canada.

According to the GCMS notes, the officer was not satisfied that the applicant would be able to adequately perform the proposed work given his “[i]nsufficient experience”. While the applicant declared that he had been a meat cutter since 2019, the officer found that the employment letter was undated and did not state the exact date when he was hired. Looking at the record, the officer's reference to the “employment letter” is the signed and notarized letter from Tehseen Meat Shop.

[9] The applicant submitted that it was a reviewable error to reject the work permit based on insufficient experience (citing *Sibal v. Canada (Citizenship and Immigration)*, 2019 FC 159, at paras 39-43; *Liu v. Canada (Citizenship and Immigration)*, 2018 FC 954, at para 29). The applicant contended that experience was not a requirement for the job – whether in the National Occupation Classification (NOC 65202), the LMIA, which advised that on-the-job training was usually provided, or the employer's job offer. The applicant also noted that the offer letter dated June 8, 2023, confirmed that the Canadian employer was satisfied with the applicant's “education and experience”. In addition, the applicant submitted that in reaching the conclusion on insufficient experience, the officer must have disbelieved or doubted the authenticity of the applicant's evidence but did not send him a letter to allow him to respond, which deprived him of procedural fairness (citing *Hassani v. Canada (Minister of Citizenship and Immigration)*, 2006

FC 1283, [2007] 3 FCR 501, at para 24; *Bajwa v. Canada (Immigration, Refugees and Citizenship)*, 2017 FC 202, at paras 60-67).

[10] The applicant's experience as a meat cutter since 2019 was confirmed in several places in the materials before the officer: (a) in his application form (confirming his occupation was meat cutter and that he started in June 2019), (b) in the letter from Tehseen Meat Shop (which set out his duties in detail and confirmed he was an owner and employee of the business), (c) in his résumé, which advised that he had been a meat cutter from "July 2019 to present" and set out what he did in that job and (d) in his statutory declaration. In his statutory declaration, sworn on June 13, 2023, the applicant stated, "me and my Partner have a business named Tehseen Meat Shop and I am working as a full-time meat cutter since 2019 to till now".

[11] While the respondent submitted that it was open to the officer to reach the conclusion that the applicant had insufficient experience, I agree with the applicant that the decision was unreasonable. The reason is that the decision did not respect the factual constraints bearing on it; specifically, the officer ignored or failed to address material evidence and failed to justify the conclusion of insufficient experience in the face of the filed information: *Vavilov*, at paras 104, 126, 127-128.

[12] As a general principle, an officer is not required to refer to every piece of evidence and is presumed to have reviewed it all. However, in the present circumstance, there was information from multiple sources filed with the work permit application confirming that the applicant had several years of experience as a meat cutter. Those sources ranged from the applicant's own

application form, résumé and statutory declaration to the letter from his co-owner, to statements from customers of the store. All of these sources contained information that ran contrary to the officer's conclusion that he had insufficient experience as a meat cutter. To render a reasonable decision, the officer had to provide reasons (which could be brief) that addressed why the officer reached the conclusion on insufficient experience despite that evidence to the contrary. See e.g., *Kahkewistahaw First Nation v. Canada (Crown-Indigenous Relations)*, 2024 FCA 8, at para 57; *Talebali v. Canada (Citizenship and Immigration)*, 2024 FC 867, at paras 15, 21; *Zendehtel v. Canada (Citizenship and Immigration)*, 2024 FC 207, at para 12; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1999] 1 FC 53 (TD), at paras 16–17, quoted in *Canada (Attorney General) v Best Buy Canada Ltd*, 2021 FCA 161, at para 123.

[13] The reasons did not do so. Instead, the officer's GCMS notes focused on a small detail in a single source – the absence of an exact hiring date in a supposedly undated letter from Tehseen Meat Shop signed by the applicant's apparent business partner – to support the broader conclusion on insufficient experience. The officer did not address all the other information supporting and consistent with the applicant's position on his experience in Pakistan as a meat cutter. I observe that while the letter from Tehseen Meat Shop was undated in its typewritten content, the notary included a date of June 23, 2023.

[14] The officer's conclusion on insufficient experience was one of two reasons provided by the officer to justify the overall decision to refuse the application for a work permit because the applicant would not leave Canada at the end of his authorized stay. That conclusion was sufficiently important to render the overall refusal decision unreasonable: *Vavilov*, at para 100.

[15] The application for judicial review must therefore be granted and the officer's decision set aside. It is unnecessary to address the other issues, including procedural fairness, raised in the applicant's thorough submissions.

[16] Neither party raised a question to certify for appeal and none arises.

JUDGMENT IN IMM-3167-24

THIS COURT’S JUDGMENT IS THAT:

1. The application for judicial review is granted. The officer’s decision dated December 20, 2023, is set aside. The matter is remitted to a different officer for redetermination.
2. No question is certified for appeal under paragraph 74(d) of the *Immigration and Refugee Protection Act*.

“Andrew D. Little”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3167-24

STYLE OF CAUSE: MOHAMMAD TESHEEN v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: DECEMBER 18, 2024

**REASONS FOR JUDGMENT
AND JUDGMENT:** A.D. LITTLE J.

DATED: JANUARY 10, 2025

APPEARANCES:

Tejinder Saroya FOR THE APPLICANT

Nicole John FOR THE RESPONDENT

SOLICITORS OF RECORD:

Saroya Law Professional FOR THE APPLICANT
Corporation
Brampton, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario